

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

v. § CRIMINAL NO. 4:07cr193

§

## BRANDON RAY MITCHELL

§

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 16, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Mandy Griffith.

On July 10, 2008, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 21 months imprisonment followed by a three-year term of supervised release, for the offense of Felon in Possession of a Firearm. Defendant began his term of supervision on August 4, 2009.

On October 28, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 30). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant

shall refrain from any unlawful use of a controlled substance, and Defendant shall submit to one drug test within 15 days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer; and (4) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Officer, until such time as Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) on June 23, 2010, Defendant was arrested by officers of the Lamar County Sheriff's Office for false drug test falsification device, and on September 16, 2010, Defendant was arrested by officers of the Mesquite Police Department for theft \$1,500 to \$20,000; (2) on June 30, 1010 and July 29, 2010, Defendant provided urine specimens which tested positive for methamphetamine/amphetamine; (3) on July 12, 2010, July 29, 2010, and August 26, 2010, Defendant provided a urine specimen which tested positive for marijuana; and (4) Defendant failed to attend scheduled uranalysis collection on June 28, 2010, July 23, 2010, July 28, 2010, and September 7, 2010.

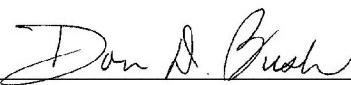
At the hearing, Defendant entered a plea of true to the alleged violations of conditions of his supervised release. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

#### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the February 16, 2011 hearing, the Court recommends that Defendant be committed to

the custody of the Bureau of Prisons to be imprisoned for a term of twelve months and one day, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities in Seagoville, Texas.

**SIGNED this 25th day of February, 2011.**



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DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE